

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No. 4:02-CR-60-5H

UNITED STATES OF AMERICA,

v.

NIGEL CLARKE

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ORDER

This matter is before the court on defendant's latest motions seeking to collaterally attack his sentence [DE #631, #638]. Defendant's motions are, in reality, motions to vacate or set aside sentence pursuant to 28 U.S.C. § 2255. Defendant previously filed a § 2255 motion on January 29, 2007, which the court dismissed as untimely. This court has also denied several motions in which defendant sought to relitigate his § 2255 motion. Because the motions presently before the court are nothing more than successive § 2255 motions, this court is without jurisdiction to consider it. See 28 U.S.C. § 2255(h) ("A second or successive motion must be certified . . . by a panel of the appropriate court of appeals"). Accordingly, defendant's motions [DE #631, #638] are DISMISSED WITHOUT PREJUDICE to defendant's right to apply to the Fourth Circuit for leave to file a successive § 2255 motion.

Additionally, defendant has filed a motion to unseal the presentence investigation report in his case. For lack of good cause shown, the motion [DE #633] is DENIED.

This 8th day of June 2017.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
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